



Chinta Perdomo
Berks & Fratangelo LLP

November 1, 2019

VIA ECF

Hon. Alison J. Nathan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: Alexander Norris v. Marc Goldner et al. 19 CV 05491-AJN

Dear Judge Nathan:

Counsel for plaintiff Alexander Norris d/b/a Webcomic Name (“Norris”) and counsel for defendants Marc Goldner, (“Goldner”) and Golden Bell Entertainment, LLC (“Golden Bell”) and Golden Bell Studios, LLC (“GBStudios”) (collectively “Defendants”) in the above entitled action (collectively, the “Parties”) jointly submit this letter in advance of the initial pretrial conference scheduled for November 8, 2019 at 3:00 p.m.

Pleadings, Parties Service

Plaintiff filed a Complaint on June 12, 2019, against Goldner, Golden Bell and GB Studios. On June 18, 2019, Plaintiff filed a Notice of Relatedness of the present case to another pending case, *Jason Wiseman et al. v. Marc Goldner et al. 1:19-cv-01282*.

1. *A brief description of the case.*

Plaintiff’s Statement. This case concerns Golden Bell’s willful and intentional acts of copyright infringement of some of Plaintiff’s distinctive works and of fraudulent trademark registrations of Plaintiff’s trademarks. Plaintiff contends that Defendants undertook this conduct in bad faith and with the deliberate intent to misappropriate Plaintiff’s intellectual property. In addition, Plaintiff asserts a breach of contract claim against GB Entertainment and a false designation of origin claim against GB Entertainment and GB Studios. Plaintiff also seeks to rescind the Collaboration Agreement with GB Entertainment as well as a declaratory judgment of the respective rights and obligations of the parties in connection to the Agreement.

Plaintiff is a well-known visual artist, comic illustrator and the author of several popular comic strips. Plaintiff has been popularizing his works under the mark “Webcomic Name” since early 2016. Plaintiff executed a Collaboration Agreement with GB Entertainment for the publication and commercialization of a game, tentatively entitled, “Webcomic Name Game” which Plaintiff co-

Page 2

created with Jason Wiseman, as well as a plush toy. Defendants never published or commercialized Plaintiff's game.

Defendants' Statement.

This action arises from a valid and enforceable contract between Plaintiff, Alex Norris and Golden Bell Entertainment, LLC ("GBE"). The agreement provided that GBE would pay advances against royalties (and subsequent royalties should the works generate royalties beyond the set-off of the advances) and in exchange, would obtain intellectual property rights in the works, obtain an option on other works by Plaintiff, and effectuate production, marketing, distribution, etc. of the works.

Plaintiff's claims related trademark infringement and copyright infringement are entirely undercut by the agreement between the parties, through which Plaintiff granted GBE 100% of the rights thereto. GBE performed under the agreement by paying the agreed-upon advances against royalties to Plaintiff. Plaintiff failed to perform under the contracts in numerous ways. Plaintiff's failures to perform include, but are not limited to: (i) failure to collaborate with GBE by failing to apply editorial changes; (ii) failure to provide access to his social media accounts in order for GBE to promote and market the works; (iii) failure to deliver final and print ready files for the works. Due to Plaintiff's failures to perform, GBE was unable to complete and exploit the contemplated works.

2. *Jurisdiction*

Plaintiff's Statement. This Court has subject matter jurisdiction 28 U.S.C. §§1331 and 1338, 15 U.S.C. §§ 1119, 1125(a), 17 U.S.C. § 501, 28 U.S.C. § 2201-02, and 28 U.S.C. § 1367(a). Plaintiff has brought an action for copyright infringement. In addition, there is a complete diversity between the Parties as Plaintiff is and all relevant times was a citizen and resident of the United Kingdom, and the amount in controversy exceeds the required minimum. Venue is proper under 28 U.S.C. §1391 because some of the defendants reside in this district.

Defendant Golden Bell is a limited liability company organized under the laws of the State of California, whose principal place of business is in Roslyn, New York, and transacts business in New York. Defendant GB Studios is a Nevada limited liability company whose principal place of business is in New York and transacts business in New York.

For purposes of this joint submission, Defendants' counsel provided Plaintiff with updated information regarding the citizenship of Golden Bell Entertainment LLC's Members as follows: Marc Goldner, a citizen of Ohio, Rachel Korsen, a citizen of New York, and Robert Gross, a citizen of Ohio and of Golden Bell Studios LLC's as follows Marc Goldner, a citizen of Ohio, Rachel Korsen, a citizen of New York, and Robert Gross, a citizen of Ohio.

Defendants' Statement. Defendants dispute this Court's federal question jurisdiction it is their position that those claims should be dismissed on the basis of the contract between the parties. Defendants do not dispute that the parties sit in complete diversity; however, if stripped of its federal question jurisdiction Plaintiff's Complaint fails to adequately plead a proper amount in controversy for diversity jurisdiction.

3. *Outstanding Motions*

Plaintiff's Statement. There are no outstanding motions.

Defendants' Statement. There are no outstanding motions.

4. *Discovery*

Plaintiff's Statement. No discovery has taken place.

Defendants' Statement. No discovery has taken place.

5. *Prior Settlement Discussions*

The Parties do not consent at this time to trial before a magistrate judge.

Plaintiff's Statement. The parties have not engaged in settlement discussions.

Defendants' Statement. The parties have not engaged in settlement discussions.

6. *Length of Trial*

Plaintiffs' Statement. Plaintiff's counsel anticipates that trial would last approximately 2-3 days.

Defendants' Statement. Defendants' agrees with Plaintiff's

A Proposed Case Management Schedule was filed with the Court on November, 1 2019.

Respectfully submitted,

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Page 4

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